

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
v.)
)
PATRICK L. BOHALL,)
)
Defendant.)
)

8:10CR287

MEMORANDUM AND ORDER

This matter is before the court on defendant's numerous pro se motions to dismiss: for failure to list the element in the indictment of "against the peace and government thereof," Filing No. [11](#); for failure of the indictment to say "evil motive and want of justification in view of all the financial circumstances of the taxpayer" when outlining willfulness, Filing No. [12](#); for institutional bad faith, Filing No. [14](#); for an indictment that overreaches and overcharges, Filing No. [15](#); for arraigning him without his consent and without consent forms, Filing No. [16](#); for failure to have an official tax assessment record presented to the jury, Filing No. [17](#); for failure of the defendant to understand the law, Filing No. [18](#); and for lack of jurisdiction in this court, Filing No. [32](#). The magistrate judge filed a report and recommendation ("F&R"). Filing No. [49](#). The defendant has filed an objection, Filing No. [50](#). Pursuant to [28 U.S.C. § 636\(b\)\(1\)\(A\)](#), the court has conducted a *de novo* determination of those portions of the F&R to which the defendant objects. [United States v. Lothridge, 324 F.3d 599, 600-01 \(8th Cir. 2003\)](#). The court agrees with the magistrate judge's application of the law to the facts of this case. Accordingly, the court will adopt the F&R in its entirety.

The defendant is charged with fraud and false statements in violation of 26 U.S.C. § 7206(1) and with failure to file individual tax returns for the years 2004, 2005, and 2006 in violation of 26 U.S.C. § 7203. The magistrate judge conducted a hearing, received testimony and exhibits, and permitted the filing of briefs. The magistrate judge denied Filing Nos. 11, 12, 14, 15, 16, 17, 18 (subject to reassertion at trial), and Filing No. 32. The magistrate judge granted defendant's request for certain documents pursuant to a bill of particulars and, consequently, denied a motion to compel as moot. The magistrate judge further denied a motion in limine, subject to reassertion at trial. The magistrate judge also denied a motion for grand jury materials and minutes, finding that (1) defendant was outside of his time for requesting motions; (2) the magistrate judge ruled on the same issues in the motion to dismiss; and (3) the defendant failed to show any particularized need as required under United States v. McDougal, 559 F.3d 837, 840 (8th Cir. 2009) (holding a court may authorize disclosure of grand jury materials only if the request falls under one of the three exceptions and shows a particularized need for grand jury materials).

The court has carefully reviewed the F&R of the magistrate judge. The court finds that the magistrate judge thoroughly discussed each of the claims raised by the defendant and the F&R is supported in its entirety. The objections are generally without substance and are a reiteration of the motions presented to the magistrate judge. Because the court agrees with the determinations of the magistrate judge, the court will adopt the F&R in its entirety.

THEREFORE, IT IS ORDERED:

1. The objections of the defendant, Filing No. 50, are overruled.
2. The motions to dismiss, Filing Nos. 11, 12, 14, 15, 16, 17, 18, and 32, are denied.
3. The F&R, Filing No. 49, of the magistrate judge is adopted in its entirety.

DATED this 10th day of March, 2011.

BY THE COURT:

s/ Joseph F. Bataillon
Chief District Judge

*This opinion may contain hyperlinks to other documents or Web sites. The U.S. District Court for the District of Nebraska does not endorse, recommend, approve, or guarantee any third parties or the services or products they provide on their Web sites. Likewise, the court has no agreements with any of these third parties or their Web sites. The court accepts no responsibility for the availability or functionality of any hyperlink. Thus, the fact that a hyperlink ceases to work or directs the user to some other site does not affect the opinion of the court.